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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,102	08/06/2003	Joseph Skrivan	21057.NP	6950

7590 01/31/2005

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RECEIVED

FEB - 2 2005

Thorpe, North & Western

EXAMINER	
PAYER, HWEI SIU CHOU	
ART UNIT	PAPER NUMBER
3724	

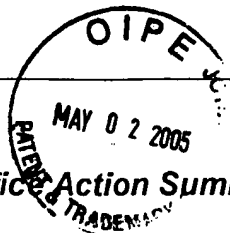
DATE MAILED: 01/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

DOCKETED

Description	Due Date	Initials
<u>Response</u>	<u>4-30-05</u>	<u>de</u>
<u>CL 2-3-05</u>		
INITIAL		

Office Action Summary



Application No. 10/635,102		Applicant(s) SKRIVAN ET AL.	
Examiner Hwei-Siu C. Payer		Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 8-10 and 15-17 is/are rejected.
- 7) ☒ Claim(s) 4-7 and 11-14 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Detailed Action

Objection to the Specification

The disclosure is objected to because of the following informalities:

- (1) On page 3, line 27, "can by" should read --can be--.

Appropriate correction is required.

Claims Rejection - 35 U.S.C. 103(a)

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 8 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoeldtke (U.S. Patent No. 2,738,815).

Hoeldtke discloses an axe device comprising an elongated shaft (15), a pick (12), a secondary grip (22), a primary grip (20), and a pommel (25) substantially as claimed except the pommel (25) is not adjustable.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make Hoeldtke's pommel (25) adjustable, since it has been held that the provision of adjustability, where needed, involves only routine skill in the art. In re Stevens, 101 USPQ 284, CCPA 1954.

Further, Hoeldtke expresses the desire to make the grip (20) adjustable to be adjustably securable to a proximal end of the shaft (15) movable towards and away from the shaft (15) to respectively shorten and lengthen a length of the shaft (15). Therefore, it would have been obvious to one skilled in the art to also make Hoeldtke's pommel (25) adjustable to further facilitate lengthening the length of the grip/shaft (20/15) as one desired.

3. Claims 2, 3, 9, 10, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoeldtke (U.S. Patent No. 2,738,815) as applied to claims 1, 8 and 15 above, and further in view of Santos et al. (U.S. Patent No. 6,073,307).

Hoeldtke's axe device as modified above lacks at least one spacer for adjusting the length of the grip (20).

Santos et al. states (see column 1, lines 53057) it is well known in the art to add spacers to a hand grip for grip adjustment.

In view of this fact, it is obvious to one skilled in the art to further modify Hoeldtke by providing the axe device with spacers for grip adjustment as desired.

Indication of Allowable Subject Matter

Claims 4-7 and 11-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Prior Art Citations

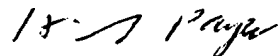
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Porter, French, Higgs, Munzer, Bennett, French Patent '664, German Patent '759 and EP '353 are cited as art of interest.

Point of Contact

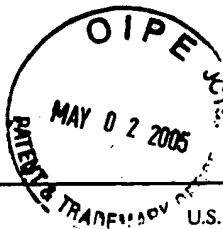
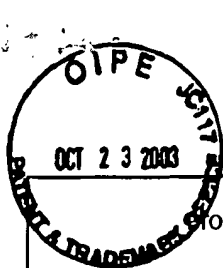
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hwei-Siu C. Payer whose telephone number is 571-272-4511. The examiner can normally be reached on Monday through Friday, 7:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for official communications and 571-273-4511 for proposed amendments.

H Payer
January 28, 2005



Hwei-Siu C. Payer
Primary Examiner



PTO-1449

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICEATTY. DOCKET NO.
21057.NPSERIAL NO.
10/635,102

LIST OF PRIOR ART CITED BY APPLICANT

APPLICANT Skrivan et al.

FILING DATE
08/06/03GROUP
A13724

U.S. PATENT DOCUMENTS

EXAMINER INITIALS		DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
18P	A1	D 203,575	01-1966	Dobbs	D 8	76	
18P	A2	D 124,300	12-1940	Morris	D 7	650	
18P	A3	263,104	08/1882	Bickel	—	—	
18P	A4	802,937	10-1905	Mccune et al.	—	—	
18P	A5	982,564	01-1911	Baker	—	—	
18P	A6	1,054,823	03-1913	Burks	—	—	
18P	A7	1,177,472	03-1916	Bartlett	—	—	
18P	A8	1,259,161	03-1918	Suer	—	—	
18P	A9	1,309,180	07-1919	Carr	—	—	
18P	A10	1,388,872	08-1921	McElhaney	—	—	
18P	A11	2,738,815	03-1956	Hoeldtke	—	—	
18P	A12	2,798,292	07-1957	Bishaf	—	—	

FOREIGN PATENT DOCUMENTS

EXAMINER INITIALS		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION YES NO
18P	A13	5494	03-1907	United Kingdom			
18P	A14	9987	11-1911	United Kingdom			
	A15						
	A16						
	A17						

OTHER PRIOR ART (Including Author, Title, Pertinent Pages, Etc.)

	A18	
	A19	
	A20	

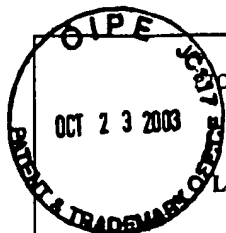
EXAMINER

H. Payer

DATE CONSIDERED

1-19-2005

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication with applicant.



P-1449

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICEATTY. DOCKET NO.
21057.NPSERIAL NO.
10/635,102

APPLICANT Skrivan et al.

FILING DATE
08/06/03GROUP
A13724

LIST OF PRIOR ART CITED BY APPLICANT

U.S. PATENT DOCUMENTS

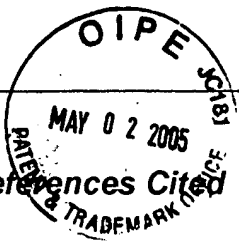
EXAMINER INITIALS		DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
18P	A21	2,804,109	08-1957	Fatica	—	—	
11P	A22	3,114,973	12-1963	Kennedy	—	—	
18P	A23	3,252,489	05-1966	Huston et al	—	—	
18P	A24	3,559,340	02-1971	Good	—	—	
18P	A25	3,712,659	1-1973	Kneissl	—	—	
11P	A26	3,735,434	5-1973	Penberthy	—	—	
18P	A27	4,023,606	5-1977	Kneissl	—	—	
18P	A28	5,210,925	05-1993	Morgulis	—	—	
11P	A29	5,347,718	09-1994	Turner	30	122	
18P	A30	5,425,176	06-1995	Brainerd et al.	30	308.1	
18P	A31	5,937,466	08-1999	Brainerd et al.	7	145	
18P	A32	5,996,235	12-1999	Brainerd	30	308.1	

FOREIGN PATENT DOCUMENTS

EXAMINER INITIALS		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION YES NO
	A33						
	A34						
	A35						
	A36						
	A37						

OTHER PRIOR ART (Including Author, Title, Pertinent Pages, Etc.)

	A38	
	A39	
	A40	
EXAMINER 14 Payer	DATE CONSIDERED 1-19-2005	
*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication with applicant.		



Notice of References Cited

Application/Control No.

10/635,102

Applicant(s)/Patent Under
Reexamination
SKRIVAN ET AL.

Examiner

Hwei-Siu C. Payer

Art Unit

3724

Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-29,192	07-1860	Porter	30/308.1
	B	US-511,768	01-1894	French	30/308.1
	C	US-1,164,092	12-1915	Higgs	30/308.1
	D	US-1,330,213	02-1920	MUNZER WILLIAM R	30/308.1
	E	US-2,738,815	03-1956	HOELDTKE CARL W	30/308.1
	F	US-2,879,591	03-1959	BENNETT SAMUEL L	30/125
	G	US-6,073,307	06-2000	Santos et al.	16/429
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N	FR 900,664	07-1945	France	---	---
	O	DE 44 17 759 A1	12-1994	Germany	---	---
	P	EP 1 388 353 A1	02-2004	EPO	---	---
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.